

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOYCE HUTCHENS,)
)
)
Plaintiff,) Case No. 13-CV-6447
)
v.)
) Judge Edmond E. Chang
CHICAGO BOARD OF EDUCATION,)
)
)
Defendant.)

**DEFENDANT BOARD'S OBJECTIONS TO AND MOTION TO QUASH
PLAINTIFF'S SUBPOENAS**

Defendant Board of Education of the City of Chicago (the “Board”) files these Objections to and Motion to Quash Plaintiff’s Subpoenas and states:

INTRODUCTION

Plaintiff recently issued subpoenas to City Colleges of Chicago, the Cook County State’s Attorney and the Board’s Interim Inspector General Nick Schuler, each of which violates Federal Rule of Civil Procedure (“Rule”) 45 in multiple respects. (**Exhibit A**) Additionally, one of the subpoenas—addressed to the Board’s Interim Inspector General—is an improper attempt to skirt Rule 34’s requirements concerning party discovery. The Board attempted to resolve this issue by notifying Plaintiff that her subpoenas do not comply with Rule 45 and requesting that she withdraw them, but has received no response to either of the two emails sent in that regard. (**Exhibit B**) Accordingly, the Board respectfully requests that the Court sustain the Board’s objections and quash the subpoenas.

ARGUMENT

The Court should quash the three subpoenas because they violate Rules 45 and 34.

A. Each of the Subpoenas Violates Rule 45.

Plaintiffs’ subpoenas violate Rule 45 in multiple respects. First, Plaintiff did not provide prior notice of the subpoenas before serving them, as required by Rule 45(a)(4). Instead, she first

delivered the subpoenas to Board counsel with a letter stating the subpoenas were “served today.”

(Exhibit A)

Second, it appears Plaintiff personally served each of the three subpoenas, which violates the Rule 45(b)(1) prohibition on a party serving its own subpoena. The Board tried to verify its understanding that Plaintiff personally served the subpoenas, but she has refused to respond to that inquiry. **(Exhibit B)**

Finally, Plaintiff has misled the parties receiving these subpoenas by signing each one as if she is an attorney. **(Exhibit A)** In doing so, she violated Illinois law:

(b) False personation; public officials and employees. A person commits a false personation if he or she knowingly and falsely represents himself or herself to be any of the following: (1) An attorney authorized to practice law for purposes of compensation or consideration.

720 ILCS 5/17-2(b)(1). Violation of this statute is a class 4 felony. 720 ILCS 5/17-2(f)(4).

Based on the foregoing, the Board respectfully requests that the Court sustain these objections and quash all three subpoenas.

B. Plaintiff Violated Rule 34 Regarding Party Discovery In Issuing a “Third Party” Subpoena to the Board’s Interim Inspector General.

The subpoena Plaintiff served on the Board’s Interim Inspector General Nick Schuler is invalid for an additional reason. The Board is a defendant in this case and Mr. Schuler, the Interim Inspector General, is employed by the Board. 105 ILCS 5/34-13.1. Any documents in the Interim Inspector General’s possession due to his employment with the Board are, by definition, Board property. The proper mechanism for discovery of documents from another party is not a subpoena pursuant to Rule 45, but rather a request for production pursuant to Rule 34. Plaintiff failed to comply with Rule 34 and, accordingly, her subpoena to the Board’s Interim Inspector General must be quashed.

CONCLUSION

The Board respectfully requests that the Court sustain these objections, grant this Motion to Quash, quash Plaintiff's subpoenas to City Colleges of Chicago, the Cook County State's Attorney and the Board's Interim Inspector General and award the Board all other relief to which it may be entitled.

Respectfully submitted,

COUNSEL FOR DEFENDANT THE BOARD OF EDUCATION OF THE CITY OF CHICAGO

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CERTIFICATE OF SERVICE

I certify that I caused this pleading to be served upon Plaintiff *pro se* by CM-ECF E-Filing pursuant to General Order on Electronic Case Filing, Section XI(C), on December 5, 2014.

s/Lisa A. Dreishmire
Lisa A. Dreishmire